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7 **UNITED STATES DISTRICT COURT**  
8 **DISTRICT OF NEVADA**

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

12 JUAN ZUBIAS-GAMEZ,  
12 a.k.a. "Juan Zubias-Gamez,"

13 Defendant.

Case No.: 2:20-mj-695-BNW

**Stipulation to Extend Deadlines to  
Conduct Preliminary Hearing and  
File Indictment (Second Request)**

14 IT IS HEREBY STIPULATED AND AGREED, by and between Nicholas A.  
15 Trutanich, United States Attorney, and Kimberly M. Frayn, Assistant United States  
16 Attorney, counsel for the United States of America, and Sylvia Irvin, Assistant Federal  
17 Public Defender, counsel for Defendant Juan Zubias-Gamez, that the Court continue the  
18 preliminary hearing currently scheduled in this case for September 28, 2020, for no earlier  
19 than 60 days from the date of the filing of this stipulation. This request requires that the  
20 Court extend two deadlines: (1) that a preliminary hearing be conducted within 14 days of a  
21 detained defendant's initial appearance, *see* Fed. R. Crim. P. 5.1(c); and (2) that an  
22 information or indictment be filed within 30 days of a defendant's arrest, *see* 18 U.S.C.  
23 § 3161(b).

1 This stipulation is entered into for the following reasons:

2 1. The United States Attorney's Office has developed an early disposition  
3 program for immigration cases, authorized by the Attorney General pursuant to the  
4 PROTECT ACT of 2003, Pub. L. 108-21.

5 2. The early disposition program for immigration cases is designed to: (1) reduce  
6 the number of hearings required in order to dispose of a criminal case; (2) avoid having  
7 more cases added to the court's trial calendar, while still discharging the government's duty  
8 to prosecute federal crimes; (3) reduce the amount of time between complaint and  
9 sentencing; and (4) avoid adding significant time to the grand jury calendar to seek  
10 indictments in immigration cases, which in turn reduces court costs.

11 3. The government has made a plea offer in this case that requires defendant to  
12 waive specific rights and hearings in exchange for "fast-track" downward departure under  
13 USSG § 5K3.1. This offer will be withdrawn if it is not timely accepted before this matter is  
14 indicted and before a preliminary hearing is held. Typically under the Fast Track, the initial  
15 request is to continue the preliminary hearing for 90 days. Here, the defendant would only  
16 agree to continue the preliminary hearing for 30 days as the initial request. However, the  
17 defendant has now decided that he would like more time to consider whether to accept the  
18 government's Fast Track offer and he now agrees to move the preliminary hearing out an  
19 additional 60 days.

20 4. Under Federal Rule of Criminal Procedure 5.1(c), the Court "must hold the  
21 preliminary hearing within a reasonable time, but no later than 14 days after the initial  
22 appearance if the defendant is in custody . . . ."

23 5. However, under Rule 5.1(d), "[w]ith the defendant's consent and upon a  
24 showing of good cause—taking into account the public interest in the prompt disposition of

1 criminal cases—a magistrate judge may extend the time limits in Rule 5.1(c) one or more  
2 times . . . .”

3 6. Furthermore, under the Speedy Trial Act, 18 U.S.C. § 3161(b), “[a]ny  
4 information or indictment charging an individual with the commission of an offense shall be  
5 filed within thirty days from the date on which such individual was arrested or served with a  
6 summons in connection with such charges.”

7 7. Defendant needs additional time to review the discovery and investigate  
8 potential defenses to make an informed decision as to how to proceed, including whether to  
9 accept the fast-track plea agreement.

10 8. Accordingly, the parties jointly request that the Court schedule the  
11 preliminary hearing in this case no sooner than 60 days from today’s date.

12 9. Defendant is in custody and agrees to the extension of the 14-day deadline  
13 imposed by Rule 5.1(c) and waives any right to remedies under Rule 5.1(c) or 18 U.S.C.  
14 § 3161(b), provided that the information or indictment is filed on or before the date ordered  
15 pursuant to this stipulation.

16 10. The parties agree to the extension of that deadline.

17 11. This extension supports the public interest in the prompt disposition of  
18 criminal cases by permitting defendant to consider entering into a plea agreement under the  
19 United States Attorney’s Office’s fast-track program for § 1326 defendants.

20 12. Accordingly, the additional time requested by this stipulation is allowed  
21 under Federal Rule of Criminal Procedure 5.1(d).

22 13. In addition, the parties stipulate and agree that the time between today and  
23 the scheduled preliminary hearing is excludable in computing the time within which the  
24 defendant must be indicted and the trial herein must commence pursuant to the Speedy

1 Trial Act, 18 U.S.C. § 3161(b) and (h)(7)(A), considering the factors under 18 U.S.C.  
2 § 3161(h)(7)(B)(i) and (iv).

3 14. This is the second request for an extension of the deadlines by which to  
4 conduct the preliminary hearing and to file an indictment.

5 DATED this 11th day of September, 2020.

6 Respectfully submitted,

7 NICHOLAS A. TRUTANICH  
United States Attorney

8 /s/ Sylvia Irvin  
9 Assistant Federal Public Defender  
Counsel for Defendant  
10 JUAN ZUMBIAS-GAMEZ

/s/ Kimberly M. Frayn  
KIMBERLY M. FRAYN  
Assistant United States Attorney

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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Case No.: 2:20-mj-695-BNW

Plaintiff,

V.

JUAN ZUBIAS-GAMEZ,  
a.k.a. "Juan Zabias-Gamez,"

**[Proposed] Order on Stipulation to Extend Deadlines to Conduct Preliminary Hearing and File Indictment**

Defendant.

Based on the stipulation of counsel, good cause appearing, and the best interest of justice being served; the time requested by this stipulation being excludable in computing the time within which the defendant must be indicted and the trial herein must commence pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(b) and (h)(7)(A), and Federal Rule of Criminal Procedure 5.1, considering the factors under 18 U.S.C. § 3161(h)(7)(B)(i) and (iv):

IT IS THEREFORE ORDERED that the preliminary hearing currently scheduled on September 28, 2020 at the hour of 8:30 a.m., be vacated and continued to 11/30/2020 at the hour of 9:00 AM.

DATED this 15<sup>th</sup> day of September, 2020.

HONORABLE BRENDA N. WEKSLER  
UNITED STATES MAGISTRATE JUDGE